1949. File No. Tenancy II/49 (R)

Legal Department

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Subject:—

Rules under the Bombay Tenancy Act, 1939

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P 7

File No. Tenancy II/49 (R)

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Revised draft rules are sent herewith.

2. Rule 4.- The R.D. draft rule provides for referring the question of the actual produce of the crop to the village officer or officers. It wouldbe desirable to name the village officer to whom the dispute is intended t o be referred. Revised draft rule accordingly provides that the dispute should be referred tothe Talati of the village.

3. Rule 7.- This rule has been revised so as t o give power to the Mamlatdar to impose the penalty.

4. Rule 11.- This rule provide for Form V in which application for adjudicationof the right to the produce of trees or the appertionment of such produce shall be made but in the R.D. draft form V there is no reference to such appertionment. The revised draft form provides for apportionment also.

5. Rule 16.- Sub-section (7) of section 32 contemplates the following kinds of disputes :

(1) question regarding the priority right in relation to the purchase of the land among the protected tenants inter se.

(2) question regarding any other right in relation to th purchase of the land between the protected tenant and the landlord or between the protected tenants inter se, and

(3) question regarding the kind, extent or location of any particular area of the land to be purchased.

The R.D. draft rule provides for questions (1) and (3) only. It is necessary to provide also for the manner in which question (2) shall be decided. Revised

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draft rule is intended to cover such questionalse

6. Rule 1E.- Clauses (e), (g) and (h) of this rule in R.D. draft contain provisions which are not warranted by the Act and are therefore omitted.

7. Form XIII.- Under section 64(2) eachperson must be given two months' time to accept or refuse the offer. In case of refusal the time limit cannot be reduced to 15 days as proposed in R.D. draft. The draft has therefore been revised.

Id/-J.R.D. 13/1
Additional Secretary to Government.

U.R. to R.D., No. 471 ,dated the 14th January 1949.

BK3. 10/6/ 4c.

Legal Department.

Draft rule 4(3). The word "the" may be inserted before the words "presence of panchas" as suggested by Secy. R.D. at p. 483 ante.

2. Draft rule 25. The objection raised to sub-rule (1) of rule 25 by Mr.Lala has some force. It is true that sub-rule (1) of rule 25 does not contain conditions subject to which the Collector can grant permission. Sub-rule (1) lays down the circumstances in which the Collector can grant permission. But Mr. Lala has missed the provisions of section 82(1) and section 86 of the Act. Section 86 gives control to the Provincial Government over Collectors acting under the Act. Reading section 86 with section 82(1) the Collector can be directed by means of a rule to grant permission in certain cases only. As pointed by the Privy Council in Emp. vs. Sibnath Banerji (1945) 48 B.L.R. 1, the function ofsub-rule (2) is illustrative only and if the rule can be supported under sub-rule (1), it will be valid. To make the point clear, the heading of rule 25 should be altered as follows :- "Circumstances in and conditions on which permission for transfer of lands to non-agriculturists may be ~~xxxxxxx~~ granted." In the first paragraph of rule 25 which should be numbered as sub-rule (1), in line 4, for the words "on any of the following conditions" the words "in the following cases" may be substituted. Sub-rule (2) should also be changed as follows :-

"(2) The permission under the proviso to sub-section (1) of section 63 shall be granted ~~xx~~ on the condition that the person shall use the land for the purpose for which the permission has been granted to him within one year from the date on which he takes

possession of the land in accordance with the provisions of this Act."

3. Form VI. As all the fields may not have been named, instead of the amendment suggested at p. 375, a new column No. 7 suggested at p.48! may be inserted. As a consequential amendment, for the word and figure#" column 9" the word and figures "column 10" may be substituted. The other new column No. 11 suggested at p. 489 is in order.

Id/-J.H.D. 18/4
Additional Secretary to Government.

U.H. to H.D., No. 4221 ,dated the 19th April 1949.

BKS. 19/6/ 4c

Legal Department.

In place of the Revenue Department draft, revised draft rules are sent herewith.

2. The functions of the Revenue Tribunal which it are to be performed under the Bombay Tenancy and Agricultural Lands Act, 1948, are entirely different from those performed by it under the Bombay Revenue Tribunal Act, 1939. Under the Tenancy and Agricultural Lands Act its orders are final and cannot be questioned in any Court. The functions of the Revenue Tribunal under this Act are more or less similar to those of the Courts. Accordingly the rules have been redrafted on the lines of the rules prescribed for similar Tribunals and have been made self contained as far as possible. Rule 14 in the Revenue Department draft if is inappropriate and has been deleted. Although section 75(2) of the Tenancy and Agricultural Lands Act lays down that the Revenue Tribunal shall in deciding appeals follow the procedure under the Code of Civil Procedure, 1908, there would be no objection to making rules under section 82 also for the purpose which are not inconsistent with the previsions of the Code. Accordingly the revised draft rules cover both the appeals as well as the revision applications to the Revenue Tribunal. It would not be feasible to dispose of revision applications by circulation. Revised draft rules therefore provide for hearing of such applications.

Id/-J.R.D. 21/4
Additional Secretary to Government.

U.R. to R.D. No. 4415 ,dated the 22nd April 1949.

DKS. 18/6/ 4c.

Legal Department.

If as stated by Revenue Department cases for transfe are not frequent, it will have to be considered from the administrative point of view, whether any provision to that effect need be made. If however any provision is to be made, a specific section to that effect on the lines of section 24 of the Civil Procedure Code will have to be inserted. The Act of 1939 did not contain any provisio for transfers. In any case it will be desirable to ~~wi~~ wait ~~x~~ until the Act has been in operation for sometime and necessary for removing difficulties on account of the want of provision for transfer is really felt.

Id/-J.R.D. 10/5
Additional Secretaryto Government.

U.O. to R.D., No. 5147 ,dated the 11th May 1949.

RRD. 18/6/ 4c.

Legal Department.

As desired revised draft rules are sent herewith in which provision has been made for disposal of applications for revision ordinarily by circulation. It appears from the Tribunal's draft rule 6(ii) at page 11 ante that when the Commissioner decides that application for revisionshould not be rejected summarily the record and proceedings of the case are to be called for. Draft rule 20 read with draft rule 6(2) provides accordingly.

2. Draft rules 9 to 16 would apply to appeals. By draft rule 20 they are made applicable to applications for revision when such applications are to be disposed of after giving a hearing to the parties.

Id/-J.KD. 8/7
Additional Secretary to Government.

U.H. to R.D. No. 7645 ,dated the 9th July 1949.

BKS. 18/8/ 4c.

Legal Department.

A revised draft form is sent herewith.

Id/-J.R.D. 17/1
Additional Secretary to Government.

U.R. to R.D., No. 800 ,dated the 18th January 1950

BKS. 18/6/ 48.

ORDER.

No. :- For the purposes of rule 3 of the Bombay Tenancy and Agricultural Lands Rules, 1949 the yield per acre of the crops specified in Column 5 of the Schedule appended hereto grown in the lands specified in Column 3 and 4 thereof, situate in the local area specified in column 2 thereof, shall be as specified against it in Column 6 thereof.

Schedule.

Serial No.	Local Area.	Type of land.	Class of land	Names of crop	Average yield per acre.
1	2	3	4	5	6

.....January 1950.

Mamlatdar of .....

BKS. 10/6/ 4c.